

No. 918/2L.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by the Government, at public expense namely, for constructing Legha Minor from R. D. 0 to Tail R. D. 30210 off taking R. D. 45550-Right Jui Canal in villages Legha Bhaman, Jitwanabas and Leghahetman in Tehsil Bhiwani District Bhiwani for which a notification has been issued under Sub-section (4) of Section 17 read with clause (c) of section (2) of section 17 of the said Act and published,—*vide* Haryana Government Gazette Notification No. Nil dated the 5th November, 1973, in Haryana Government Gazette, Part I, it is hereby declared that the land described in the specifications below is required urgently for the above purpose.

This declaration is made under the provisions of Section 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

The plan of the land may be inspected in the office of the Land Acquisition Collector, Public Works Department, Irrigation Branch, Ambala and the Executive Engineer, Jui Canal Division, Bhiwani.

SPECIFICATION

District	Tehsil	Village	Area in acres	Boundary
Bhiwani	Bhiwani	Legha Bhaman	38.67	A strip of land 30,210 feet in length varying in width lying generally in direction from South-East to North-West and then South-West to North-East as demarcated at site and as shown on index plan and passing through khasra field/rectangle number as per separate statement given below.
Do	Do	Jitwanabas	3.27	
Do	Do	Legha Hetman	9.34	
		Total	51.28	

(Sd.)

Superintending Engineer,
Loharu Canal Circle, Rohtak.

Statement showing rectangle/field number for land proposed to be acquired for constructing Legha minor from R. D. 0 to tail R. D. 30,210 off taking at R. D. 45,550-Right of Jui Canal in villages Legha Bhaman, Jitwanabas and Legha Hetman in Tehsil Bhiwani District Bhiwani.

Serial No.	Name of village	Tehsil	District	Hadbast number	Khasra number field number
1	Legha Bhaman	Bhiwani	Bhiwani	62	Khasra Number 53, 52/3, 54, 51, 59/2, 51/2, 64, 65, 154, 155, 157, 153, 150, 146, 148/1, 161, 173, 166, 331/170, 330/170, 167, 183, 220/2, 220/1, 219, 217, 227, 352/207, 228, 360/230
				118	6 and 10
				119	10, 9, 8, 7 and 6
				120	10, 9, 2/2, 3/2, 3/1, 8, 4/1
				115	23, 24, 25 and 16
				114	21, 20, 11, 19, 12, 13, 8, 14, 7, 6 and 5
				113	1 and 2
				108	22, 26, 23/1, 23/2, 18/2, 18/1, 17/2, 17/1, 14, 15, 7, 6 and 5

Serial No.	Name of Village	Tehsil	District	Hadbast No.	Khasra No./field No.
1	Legha Bhanan	Bhiwani	Bhiwani	109	1
				96	21, 22, 20, 19, 12, 9, 8, 13 and 3
				91	23, 24, 17, 16, 15 and 14
2	Jitwanabas	Do	Do	61 168	5
				163	25
				167	1
				162	21, 20, 22, 19, 12, 18, 13, 8, 14, 7, 4 and 5
				158	25
				159	21
3	Legha Hetman	Do	Do	60 97	25 and 16
				96	21, 20, 19, 18, 17, 14 15 and 16
				95	11, 20, 12, 13, 14 and 15
				94	11, 12, 9, 8, 7, 6 and 5
				93	1, 2, 3, 4 and 5
				92	1/1, 1/2, 2, 3, 4, 5, 6, 7 and 8

No. 926/21.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by the Government at public expense namely for constructing Simlibas Sub-Minor from RD 0 to Boil RD 8200 off taking RD 14623 left Legha Minor in village Legha Bhanan and Simlibas in Tehsil Bhiwani District Bhiwani, for which a notification has been issued under sub-section (4) of section 17 road with clause (c) of sub-section (2) of section 17 of the said act and published,—vide Haryana Government Notification No. Nil dated the 8th May, 1973 in Haryana Government Gazette Part I, it is hereby declared that the land acquisition described in the specifications below is required urgently for the above purpose.

This declaration is made under the provisions of section 6 of the land acquisition act, 1894 for the information of all to whom it may concern.

The plans of the land may be inspected in the office of the land Acquisition Collector, Public Works, Department Irrigation and Power, Ambala and the Executive Engineer, Jui Canal Division, Bhiwani.

SPECIFICATIONS

District	Tehsil	Village	Area in acres	Boundary
Bhiwani	Bhiwani	Legha Bhanan	1.30	A strip of land 8,200 feet in length and varying in width lying generally in the direction from east to west and then south east and west to north and demarcated at site and as shown on the index plan and falling in khasra numbers as per separate statement attached.
Do	Do	Simlibas	9.41	
			10.71	

Statement showing khasra field numbers for land proposed to be acquired for constructing Simlibas Sub-Minor from RD 0 to tail RD 8 230 off taking RD 14.628 Left Legha Minor in villages Legha Bhanan and Simlibas in Tehsil Bhiwani, District Bhiwani.

Serial No.	Name of Village	Tehsil	District	Part	Khasra Field No.
1.	Legha Bhanan	Bhiwani	Bhiwani	Khasra No.	319, 226
2.	Simlibas	Do	Do	Khasra No.	1257 1258
					165 65
					1140
				62, 72, 149, 150, 148, 146.	145
					1141
				143, , 136	135

(Sd.)

Superintending Engineer,
Loharu Canal Circle, Rohtak.

LABOUR DEPARTMENT

The 16th January, 1974

No. 451-4Lab-74/1638.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M's Technological Institute of Textiles Mills, Bhiwani.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 177 of 1972

between

SHRI KAILASH NATH AND THE MANAGEMENT OF M/S TECHNOLOGICAL INSTITUTE
OF TEXTILES MILLS, BHIWANI

Present

Shri Raghbir Singh, for the workman.

Shri B. R. Ghai and Shri N. M. Jain, for the management.

AWARD

This reference has arisen out of the dismissal from services of Shri Kailash Nath a workman of M's Technological Institute of Textiles Mills, Bhiwani allegedly on a charge of mis-conduct and after holding proper domestic enquiry. The parties have been heard on the question of the vices of domestic enquiry which has been treated as a preliminary issue. The relevant facts may briefly be stated as under.

Shri Kailash Nath concerned workman was in the service of M's Technological Institute of Textiles Mills Bhiwani as a Back Sizer since 1965. The management served him with a charge-sheet, dated 18th February, 1970 that on 27th September, 1969 he had gone on illegal strike in collaboration with other workers when their demands were pending consideration before the Industrial Tribunal and that he had forcibly stopped the willing workers on going to their duties. It was further alleged that at about 12-30 Noon on 27th October, 1969 he had assaulted the Head Time Keeper Shri N. S. Mehta in the park in front of the court and threatened him with dire consequences if he tried to come out of the mills. He submitted his explanation to the above charge-sheet on 18th February, 1970 denying the allegations levelled against him by the management. His explanation was not found to be satisfactory and Shri K. C. Bansal, was deputed to hold the enquiry against him into the above allegations.

Shri K. C. Bansal held the enquiry after due notice to Shri Kailash Nath and after considering the evidence and documents produced on both sides found him guilty of the above charges levelled against him by the management. He submitted his report with the above findings on 19th May, 1971. The management considered his findings and in view of the serious charges of mis-conduct established against him did not consider him fit for service and hence the impugned order of his dismissal from service, dated 26th May, 1971 which was duly communicated to him.

Feeling aggrieved by the above order, he raised a demand for reinstatement contending that the charges levelled against him by the management were baseless and no proper enquiry was held against him and he was, therefore, entitled to reinstatement with continuity of previous service and payment of back wages. There was no satisfactory response from the management. The conciliation proceedings also ended in failure.

On receipt of the failure report from the Conciliation Officer the Governor of Haryana referred the above dispute for adjudication to this court,—vide order, No. ID/HSR/20-A-71/20294-99, dated 3rd June, 1972, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference :—

“Whether the termination of services of Shri Kailash Nath was justified and in order? If not, to what relief is he entitled?”

The parties were called upon to put in their respective written statements which they did and as already stated the management contested the claim of the workmen on the ground that he was guilty of mis-conduct in the discharge of his duties which had been duly established in the enquiry and he was, therefore, not entitled to any relief. He controverted the above allegations.

As already pointed out the question of the validity or otherwise of the domestic enquiry alone has to be decided first and it is not necessary at this stage to go into the merits of the case. The following two issues have arisen for determination on this question from the pleadings of the parties :—

- “(1) What is the effect of the approval granted by the Industrial Tribunal, Haryana for the impugned action of dismissal from service taken by the management about Shri Kailash Nath concerned workman?
- (2) Whether the termination of services of Shri Kailash Nath was justified and in order? If not, to what relief is he entitled?”

The management has produced true copies of the enquiry proceedings, the original record having been produced in another case before the Industrial Tribunal, Haryana. The Enquiry Officer Shri K. C. Bansal has come into the witness-box and made a detailed statement proving the enquiry record.

On the other hand, Shri Kailash Nath, workman concerned has made his own statement and examined two workers, namely, S/Shri Dev Narain and Bhagirath.

Arguments have been addressed on both sides and I have been taken through the entire record.

Issue No. 1.—It has been urged on behalf of the workman that an application for approval of the aforesaid action taken against this workman had been moved as contemplated under section 33-2(b) of the Industrial Disputes Act, 1947 which was not contested by the workman although reserving his right to raise a regular dispute as contemplated under section 10 of the Industrial Disputes Act. The contention is that since no points in validating the approval asked for had been raised and it had not been urged that any principle of natural justice had been violated in conducting the enquiry, the workman is debarred from raising these objections now. The contention does not appear to be without force. Even if, the workman wanted the dispute to be settled by means of a reference under section 10 of the Industrial Disputes Act, he should have raised his objections regarding the violation of the principles of natural justice by the Enquiry Officer in holding the enquiry, if any, in his reply to the approval application under section 33-2(b) of the Industrial Disputes Act and since nothing of the sort was done by him he is naturally debarred from raising these points now by operation of the principle of constructive *res judicata*. The learned representative of the workman has not been able to satisfy me to the contrary. The issue No. 1 is accordingly held against him.

Issue No. 2.—Even otherwise the perusal of the entire evidence produced on both sides does not show that the Enquiry Officer had violated any principle of natural justice in holding the enquiry. The enquiry was held after due notice to the workman and full opportunity was given to him to cross-examine the witnesses of the management and produce his own defence. The enquiry was not held in any hasty manner and several dates of enquiry were fixed from time to time.

The main contention of the workman is that the statements of the witnesses of the management were recorded at his back and in spite of his repeated requests the witnesses were not re-called to enable him to cross-examine them. It has further been contended that no chance was given to him to produce his own defence. The

above contentions raised on behalf of the workman have not been substantiated by any cogent and convincing evidence. A perusal of the record would show that the management had examined six witnesses in all and opportunity had been given to Shri Kailash Nath and his co-worker, Shri Narang to cross-examine them and this opportunity was fully availed in respect of three witnesses, namely, S Shri S.N. Mehta, Prem Sagar Jain and Purshotam Lal Goel while the other witnesses were not cross-examined, although opportunity was given to them for this purpose by the Enquiry Officer. It was up to the workman concerned or his representative (co-worker Narang) to put-in questions in cross-examination to the other witnesses or not. It would further be clear from the enquiry proceedings brought on record that after the conclusion of the evidence of the management on 3rd April, 1971, the Enquiry Officer adjourned the proceedings four times to enable the workman to produce his defence, but for reasons better known to him he neither made his own statement nor did he produce any other witness in his defence.

It has been vehemently argued by the learned representative of the workman that, as a matter of fact, that the so called statements of the witnesses of the management had been recorded by the Enquiry Officer in his absence and the workman had pressed for recalling the witnesses for fresh statements in his presence which was declined by the Enquiry Officer. The contention is not warranted by the record. No plea as such was raised in the demand notice nor in the statement of claim filed in the present proceedings. It has further been argued that the workman had brought his defence witnesses but the Enquiry Officer had refused to take their statements. But no such suggestion was put to the Enquiry Officer in his cross-examination when he came into the witness-box as M.W. In the circumstances, the version given by the Enquiry Officer has to be believed.

So far the reasons aforesaid, I do not find anything wrong with the enquiry held against this workman. The Enquiry Officer was not in any way prejudiced against him and he had conducted the enquiry in a proper manner after giving him full opportunity to cross-examine the witnesses of the management and produced his own defence. No principle of natural justice having been violated by the Enquiry Officer in holding the enquiry, his findings of holding the workman guilty of the charges of serious mis-conduct levelled against him by the management have to be upheld.

The impugned order of dismissal from service of the workman having thus been made after holding a just and proper enquiry into the charges of serious mis-conduct in accordance with the principle of natural justice. No reasonable ground has been made out by the workman to interfere with the impugned order of his dismissal from service. The issues involved are, therefore, decided against him, holding that he is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly but without any order as to costs.

Dated the 9th January, 1974.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 135, dated the 11th January, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 475-4Lab-74/1645.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s. Elsons Cotton Mills, (P) Ltd., Ballabgarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Application No. 32 of 1972 under section 33A of the Industrial Disputes Act, 1947.

between

SHRI RAM ASHAREY, WORKMAN AND THE MANAGEMENT OF M/S ELSONS
COTTON MILLS (P) LTD., BALLABGARH.

Present:— Shri Sunhari Lal, for the workman.

Shri Jawala Singh, for the management.

AWARD

Shri Ram Asharey a workman of M/s Elsons Cotton Mills (P) Ltd., Ballabgarh, brought this complaint under section 33-A of the Industrial Disputes Act, 1947, with the allegations that during the pendency of a dispute (Reference No. 104 of 1971), the management terminated his services without obtaining the prior approval of the Tribunal and as such the impugned order being in contravention of the provisions of section 33 of the aforesaid act is illegal, unjustified and not binding upon him and in the result he is entitled to reinstatement with full back wages.

Notice of the complaint was given to the management. No written statement has been filed. It is, however, not necessary to go into the merits of the case as the dispute has amicably been settled by the parties outside the Court as per the settlement, dated 15th November, 1973, Ex. M-1 on record. Shri Ram Asharey concerned workman has received his full and final dues from the management giving up his right of reinstatement or re-employment.

In view of the above, the present complaint has become infructuous and shall stand dismissed as such but without any order as to costs.

The 26th December, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1404, dated the 31st December, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 26th December, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 472-4Lab.-74/1647.—In pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (Act. No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Executive Engineer, West Jamuna Canal, Karnal Division, Karnal.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 19 of 1972

between

SHRI BHARTU RAM, WORKMAN AND THE MANAGEMENT OF M/S EXECUTIVE ENGINEER,
WEST JAMUNA CANAL, KARNAL DIVISION, KARNAL

Present.—Shri Sain Dass for the workman.

Shri Harjeet Kumar Sudan, Sectional Officer, for the management.

AWARD

By order No. ID/KNL/7470, dated the 23rd February, 1972 of the Governor of Haryana, the following dispute between the Executive Engineer, West Jamuna Canal, Karnal Division, Karnal and Shri Bhartu Ram, Beldar was referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947.

“Whether the action of the Management in giving promotion to Shri Bhagwan Dass, Beldar ignoring Shri Bhartu Ram, Beldar is justified and in order? If not, to what relief is he entitled?”

The parties were called upon to put in their respective written statements. In the statement of claim filed on behalf of the workman concerned it was urged that he was the senior most employee being educated upto 6th class and had workable knowledge while Shri Bhagwan Dass was illiterate and junior Beldar, but inspite of that he was given promotion as Gauge Reader in complete disregard of the right of Shri Bhartu Ram who should, therefore, be promoted as Gauge Reader in place of Shri Bhagwan Dass with retrospective effect.

On the other hand, in the written statement filed on behalf of the management it was urged that Shri Bhartu Ram had no-doubt joined service as Beldar since 1st March, 1966 but he was not found fit for the job of Gauge Reader as reported by the Sub-Divisional Officer, Nardak. However, he was called for interview along

with other contestants, namely, Daulat Ram, Bhagwan Dass and out of the three Shri Bhagwan Dass was found to be the most suitable for promotion taking into consideration his physical condition, education, knowledge of work etc. and as such he was promoted as Gauge Reader and confirmed by order of the Executive Engineer, West Jamuna Canal, Karnal Division, Karnal who had held the interview. It was further urged that the question of seniority and juniority in this case did not arise as the date of appointment of all these persons was the same as per entries in their service books. The workmen concerned controverted the above allegations in his replication.

From the pleadings of the parties the only issue that arose for determination in the case was as per the term of reference stated above. Shri Bhartu Ram concerned workman has come into the witness box and stated that he is educated upto the Lower Middle Standard while Shri Bhagwan Dass was a quite illiterate. He has further asserted that he is fully competent to discharge the duties of the Gauge Reader. In his cross examination he has admitted that the date of his entry into service is 1st March, 1966 but he had actually joined service in 1964.

Shri Harjeet Kumar Sudan, Sectional Officer, has come into the witness box as Ex. M.W. 1 and produced the service books of Sarvshri Bhartu Ram, Bhagwan Dass and Daulat Ram, Ex. M.W. 1, M.W. 2, M.W. 3. According to which all of them had joined service on the same day. He has further stated that the right of Shri Bhartu Ram has been ignored in promoting Shri Bhagwan Dass as Gauge Reader. In cross examination he has further stated that Shri Bhagwan Dass was asked to produce the certificate regarding his educational qualification which he did not. The witness has admitted in further cross examination that Shri Bhagwan Dass has been discharging the duties of the Gauge Reader properly. In answer to certain Court questions the witness has stated that no special qualification or standard of education is required for the post of a Gauge Reader and no seniority list of the Beldars is maintained. He has further stated that the Executive Engineer, who had held the interview was fully competent to select any one of the Beldars for promotion as Gauge Reader taking into consideration their respective record of service.

Arguments have been heard on both sides and I have given a careful consideration to the facts on record and the contentions raised on both sides.

As would be clear from the statement of M.W. 1 read with the entries in the service books of the employees concerned, namely, Sarvshri Bhartu Ram, Daulat Ram and Bhagwan Dass the date of their entries into service as Beldars is the same i.e., 1st March, 1966. It is further clear from his statement that the Executive Engineer who had called all the three persons for interview for promotion as Gauge Reader was fully competent to select any one of them for promotion to this post taking into consideration the record of their service. This witness has still further admitted that no special qualifications or standard of education is prescribed for the post of Gauge Reader and that Shri Bhagwan Dass the person in question has been properly performing the duties of the Gauge Reader, their being no complaint against his work although in the opinion of the witness Shri Bhartu Ram would have been better qualified for promotion.

In view of the facts stated above which are more or less admitted, I do, not find that Shri Bhartu Ram, workman concerned, has made out any case to interfere with the discretion exercised by the competent authority, the Executive Engineer West Jamuna Canal, Karnal Division, Karnal, who held the interview of all the three contestants Sarvshri Bhartu Ram, Daulat Ram and Bhagwan Dass and found Shri Bhagwan Dass as the most suitable person for the post. I have not been referred to any rule or regulation to question the validity of the discretion exercised by him in this matter. Nothing has been brought on record to show that the work of Shri Bhagwan Dass as Beldar has not been satisfactory. On the other hand it has been admitted by Shri Harjeet Kumar Sudan, M.W. 1 that there had never been any complaint against him and he had been exercising the duties of the Gauge Reader properly. The mere fact that Shri Bhartu Ram is educated upto the 6th standard and Shri Bhagwan Dass possessed lesser educational qualifications than him by itself was no ground to prevail upon the competent authority who after holding regular interview found Shri Bhagwan Dass as the most suitable person for promotion as Gauge Reader, taking into consideration his physical condition, knowledge of work experience, etc.

So, for the reasons aforesaid, the impugned order of the management can not be held to be unjustified or not in order and as such there is manifestly no ground to interfere with it so as to entitle the workman concerned to the relief asked for. The issue involved is decided against the workman and in favour of the management and the award is made accordingly, without any order as to costs.

Dated the 26th December, 1973.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1403, dated the 31st December, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 26th December, 1973.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.